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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/532,755	03/22/2000	Craig A. Finseth	PD-990193	8261

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THE DIRECTV GROUP, INC.
PATENT DOCKET ADMINISTRATION
CA / LA1 / A109
P O BOX 956
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EXAMINER	
SHELEHEDA, JAMES R	
ART UNIT	**PAPER NUMBER**
2623	

MAIL DATE	DELIVERY MODE
04/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/532,755	FINSETH ET AL.	
	Examiner	Art Unit	
	JAMES SHELEHEDA	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 April 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *11-14,16-19,26-43,45,46,49-52 and 59-67* is/are pending in the application.

4a) Of the above claim(s) *26-43,45,49-52 and 59-64* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *11-14,16-19 and 65-67* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/16/08 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 11-14, 16-19, 66 and 67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond et al. (Zigmond) (6,698,020) (of record) in view of Knee et al. (Knee) (US 2002/0095676 A1) (of record) and Wren (6,055,514).

As to claim 14, Zigmond discloses a method for broadcasting and displaying advertisements (column 4, lines 8-15), comprising:

receiving program guide data (column 10, line 64-column 11, line 13) and advertising data (column 12, lines 15-32), wherein the program guide data includes

program attribute information identifying content of each of a plurality of television programs (column 10, line 64-column 11, line 13 and column 12, line 60-column 13, line 13) and wherein the advertising data includes a plurality of advertisements (column 12, lines 15-32 and column 17, lines 10-20) and advertisement attribute information identifying content of each of the plurality of advertisements (advertisement parameters; column 12, lines 15-32 and column 11, lines 35-48);

maintaining a selection history comprising a user viewing profile that includes program attribute information identifying content of television programs selected by a user (stored viewing history; column 11, lines 13-30).

While Zigmond discloses performing, for each of the plurality of advertisements (column 17, lines 10-20), one or more comparisons between the advertisement attribute information and the program attribute information of the user viewing profile (column 11, lines 17-49 and column 17, lines 10-20);

discarding advertisements having a value less than or equal to a predetermined threshold value (discarding ads determined to not match the viewer; column 15, lines 17-23 and column 17, lines 10-20); and

displaying a set of advertisements from the plurality of advertisements based on the value (displaying ads which are determined to match the viewer's program history; column 11, lines 31-65 and column 17, lines 21-32), he fails to specifically disclose calculating similarity scores for the advertisements, discarding advertisements having a similarity score less than or equal to a first threshold, displaying the advertisements based upon the similarity scores and choosing a version of one of the plurality of

advertisements from a plurality of versions associated with the one of the plurality of advertisements based on a similarity score of the one of the plurality of advertisements, wherein the set of advertisements comprises the version of the one of the plurality of advertisements.

In an analogous art, Knee discloses a method for selecting advertisements (paragraph 10; Fig. 5) which compares a users selection history (paragraph 35, 36 and 50) and advertisement attribute information (ad values; paragraphs 46, 47 and 50) to calculate a similarity score for the advertisement (calculating a "closeness" score to identify which ads of a plurality most closely match the viewer; paragraph 47) and displaying the advertisements based upon the similarity score (displaying the "best match" ads; paragraph 47 and 50), wherein advertisements having a similarity score less than or equal to a threshold are discarded (wherein the advertiser determines minimum values which must be met to display the ad; paragraph 32), for the typical benefit of providing a systematic approach to targeting ads and identifying the best to display to the user, based upon user history and ad criteria (paragraphs 7, 47 and 50).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond's system to include calculating a similarity score for each of the advertisements, discarding advertisements having a similarity score less than or equal to the threshold and displaying the advertisements based upon the similarity scores, as taught by combination with Knee, for the typical benefit of providing a systematic approach to targeting ads and identifying the best to display to the user, based upon user history and ad criteria.

Additionally, in an analogous art, Wren discloses an broadcast advertising system (column 10 ,lines 34-43) wherein a customer profile is used to select which advertisement will be displayed to the user (column 10, lines 34-43) and will additionally use the profile to selection one of a plurality of available versions of an advertisement (column 10, lines 34-43) for the typical benefit of providing a targeted advertisement system wherein an advertisement can alter there commercial according to the demographics of the anticipated viewer (column 10, lines 34-43), so as to maximize the effectiveness of the ad.

It additionally would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond and Knee's system to include choosing a version of one of the plurality of advertisements from a plurality of versions associated with the one of the plurality of advertisements based on a similarity score of the one of the plurality of advertisements, wherein the set of advertisements comprises the version of the one of the plurality of advertisements, as taught in combination with Wren, for the typical benefit of providing a targeted advertisement system wherein an advertisement can alter there commercial according to the demographics of the anticipated viewer so as to maximize the effectiveness of the ad.

As to claim 16, Zigmond, Knee and Wren disclose storing the advertising data by determining if each of the plurality of advertisements received has a similarity score greater than an advertisement from the set of advertisements (only storing and utilizing

the most best matching ads; see Zigmond at column 15, lines 17-23, column 17, lines 10-20 and Knee at paragraph 47).

As to claim 17, Zigmond, Knee and Wren disclose storing the advertising data in a memory if the memory has sufficient space to store each of the plurality of advertisement (see Zigmond at column 15, lines 17-23).

As to claim 18, Zigmond, Knee and Wren disclose storing the advertising data beyond a lifetime associated with an advertisement when the advertisement has a similarity score greater than a second threshold similarity score (wherein a previously selected ad has been recorded and is now obsolete; see Zigmond at column 14, lines 1-13).

As to claim 19, while Zigmond, Knee and Wren disclose a plurality of versions of associated with the one of the plurality of advertisements (see Wren at column 10, lines 34-43), they fail to specifically disclose wherein the advertisements are of different sizes.

The examiner takes Official Notice that it was notoriously well known in the art a the time of invention by applicant to transmit advertisements of different sizes, so as to allow the advertiser more control over the advertisement, such as when providing ads of different lengths to different viewers, allowing the use of multiple video compression formats which would allow different systems to access and display the ad or providing

different ad versions with different video content, which would have different sizes when encoded based upon the specific video scenes within the ads.

Thus, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond, Knee and Wren's system to include advertisements of different sizes, for the typical benefit of ensuring the advertiser can provide the best tailored advertisement to a particular audience, based upon their particular desires or requirements.

As to claim 11, Zigmond, Knee and Wren disclose wherein displaying the set of advertisements from the plurality of advertisements based on the similarity score includes repeating the display of the advertisement from the set of advertisement at a frequency (see Zigmond at column 13, lines 40-47) based on a similarity score associated with the advertisement (determining if the ad is displayed; see Knee at paragraph 47).

As to claim 12, Zigmond, Knee and Wren disclose wherein displaying the set of advertisements from the plurality of advertisements based on the similarity score includes prioritizing advertisements within the set of advertisements for display based on the similarity scores of the advertisements within the set of advertisements (wherein the order of display for the ads is based upon a "best match" calculation for each ad; see Knee at paragraph 47) and displaying the advertisements within the set of advertisements in order of priority (wherein the highest priority or "best match" for each

successive ad slot is selected and displayed; see Zigmond at column 21-49 and Knee at paragraph 47).

As to claim 13, Zigmond, Knee and Wren disclose wherein displaying the set of advertisements from the plurality of advertisements based on the similarity score includes displaying advertisements having a similarity score greater than a second threshold score (wherein the highest scoring ad at any time is selected and displayed; see Zigmond at column 17, lines 10-20 and Knee at paragraph 32).

As to claim 66, Zigmond, Knee and Wren disclose wherein choosing the version of the one of the advertisements comprises comparing the similarity scores of the one of the advertisements to a second threshold similarity score (wherein the highest scoring ad at any time is selected and displayed, thus comparing the scores of the different versions to other ads and to each other; see Zigmond at column 17, lines 10-20 and Knee at paragraph 32).

As to claim 67, while Zigmond, Knee and Wren disclose choosing the version of the one of the advertisements comprises when the similarity score of the one of the advertisements exceeds the second threshold similarity score (selecting the version which has the highest similarity score; see Zigmond at column 17, lines 10-20 and Knee at paragraph 32), they fail to specifically disclose selecting the version which is larger.

The examiner takes Official Notice that it was notoriously well known in the art a the time of invention by applicant to transmit advertisements of different sizes, so as to allow the advertiser more control over the advertisement, such as when providing ads of different lengths to different viewers, allowing the use of multiple video compression formats which would allow different systems to access and display the ad or providing different ad versions with different video content, which would have different sizes when encoded based upon the specific video scenes within the ads.

Thus, it would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond, Knee and Wren's system to include advertisements of different sizes, for the typical benefit of ensuring the advertiser can provide the best tailored advertisement to a particular audience, based upon their particular desires or requirements.

4. Claims 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zigmond, Knee and Wren and further in view of Alexander et al. (Alexander) (6,177,931) (of record).

As to claim 65, while Zigmond, Knee and Wren disclose a plurality of versions of the one of the plurality of advertisements, they fail to specifically disclose different graphics.

In an analogous art, Alexander discloses a method for targeting advertisements to a viewer (column 32, lines 32-54) wherein multiple versions of an advertisement are available (column 32, lines 32-54) each advertisement including different graphics

(column 32, lines 32-54) for the typical benefit of allowing an advertisement to be customized to a local viewer through a simple overlay message (column 32, lines 32-54).

It would have been obvious to one of ordinary skill in the art at the time of invention by applicant to modify Zigmond, Knee and Wren's system to include different graphics, as taught by combination with Alexander, for the typical benefit of providing a simple means to provide specific local information to viewers without needing an entire new advertisement, through an overlay graphic.

Response to Arguments

5. Applicant's arguments filed 04/16/08 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Abecassis (6,553,178) disclosing transmitting different sizes of content to different viewers based upon their preferences.

7. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually

depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

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Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMES SHELEHEDA whose telephone number is

(571)272-7357. The examiner can normally be reached on Monday - Friday, 9:00AM - 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/James Sheleheda/
Examiner, Art Unit 2623

JS